



May 24, 2021

MEMORANDUM FOR THE FEDERAL FACILITY SECURITY COMMITTEES AND
DESIGNATED OFFICIALS

FROM: L. Eric Patterson

Director

Federal Protective Service

A handwritten signature in black ink, appearing to read "L. Eric Patterson", is written over the printed name and title.

SUBJECT: **Federal Protective Service Updated Mask Enforcement Guidance**

Purpose: This memorandum provides updated guidance from the Federal Protective Service (FPS) to Federal Facility Security Committees (FSCs) and Designated Officials (DOs) regarding FPS enforcement of face masks consistent with the updated mask guidance issued on May 13, 2021 by the Centers for Disease Control and Prevention (CDC). FPS understands and regards the CDC mask guidance as consistent with and incorporated by reference in both Executive Order (EO) 13991, *Protecting the Federal Work Force and Requiring Mask-Wearing*, and the corresponding Office of Management and Budget (OMB) Memorandum M-21-15, *COVID-19 Safe Federal Workplace: Agency Model Safety Principles*.¹

Timeliness: This memorandum contains updated, time-sensitive information for immediate distribution to FSCs and DOs related to mask wearing enforcement.

Background: On February 12, 2021, FPS provided guidance to FSCs and DOs regarding FPS enforcement of mask wearing for all individuals while entering or otherwise clearing security screening stations located on federal property protected by FPS. FPS advised that it enforces the wearing of masks upon receipt of written confirmation of four criteria: (1) the FSC/DO either already adopted/approved existing security countermeasures requiring the wearing of masks, or are implementing such requirements as dictated by EO 13991 and OMB M-21-15; (2) notice of the requirement for wearing masks via written signage is posted conspicuously at each public entrance by the FSC/DO or the Building Manager; (3) all occupying federal agencies develop accommodations for persons without access to or refusing to wear masks to acquire any Government benefits or services to which the individual is entitled, such as monetary benefit payments or required adjudicative appointments or hearings; and (4) all occupying federal

¹ EO 13991 expressly states “agencies should immediately require masks and distancing consistent with CDC guidance in all Federal buildings.” (emphasis added). OMB Memorandum M-21-15 similarly states that “individuals in Federal buildings and on Federal lands should all wear masks, maintain physical distance, and adhere to other

public health measures, as provided in CDC guidelines” (emphasis added).

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agencies develop and communicate internal policies or guidance to their personnel (employees and contractors) that address the requirement to wear masks as required in OMB M-21-15, to include whether the mask is provided by the agency, contract vendor, or individual employee or contractor.

On May 13, 2021, the Centers for Disease Control and Prevention (CDC) updated its mask guidance for fully vaccinated individuals. Among those updates, the CDC now explains that fully vaccinated people no longer need to wear a face mask or physically distance in many settings. A person is considered fully vaccinated two weeks after receiving the last recommended dose of vaccine. Notably, the updated CDC guidance allows, but does not mandate, the relaxing of mask wearing for fully vaccinated persons. The CDC states: “fully vaccinated people no longer need to wear a mask or physically distance in any setting, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance.”² The “except” clause expressly states that mask wearing may remain a requirement where prescribed by applicable federal laws, rules, and regulations, to include local workplace guidance. Consequently, mask wearing requirements for entering on or working in FPS-protected federal facilities may change for fully vaccinated individuals depending on the applicable law, rules, and regulations, to include workplace guidance, specific to the local federal facility.

Guidance: In accordance with Executive Orders 12977 (Oct. 19, 1995) and 13286 (Feb. 28, 2003), as authorized in accordance with the Homeland Security Act of 2002,³ the Interagency Security Committee (ISC), chaired by the Department of Homeland Security and comprised of representatives from various federal agencies, sets standards and recommends guidelines for the safety and security of federal facilities nationwide. Consistent with the ISC Standard,⁴ the responsible FSC/DO at a federal facility must address facility-specific security issues and approve the implementation of interim and permanent security measures and practices, to include security screening countermeasures. FPS enforces approved security screening countermeasures that conform with applicable legal authorities.

Consistent with the framework identified above, FPS will not enforce any mandatory or compulsory requirement to wear a face mask in FPS-protected federal facilities where the FSC/DO has determined and communicated through written signage posted conspicuously at each public entrance that wearing a mask is no longer needed for fully vaccinated individuals consistent with CDC guidance. FPS will not request information about an individual’s vaccination status in such facilities. Conversely, if the FSC/DO notifies FPS in writing of its determination to continue to require face masks as a protective security countermeasure for all individuals (including those

² <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (emphasis added) (last viewed on May 19, 2021).

³ Pub. L. No. 107-296, 116 Stat. 2135.

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fully vaccinated) entering the federal facility consistent with the CDC's discretionary language for local, facility-specific workplace guidance, then FPS will continue to enforce the mask wearing security countermeasure in accordance with its February 12, 2021 Memorandum for FSCs/DOs. It is recommended that the FSC/DO update its notice that wearing masks includes those fully vaccinated and the notice is posted conspicuously at each public entrance by the FSC/DO or the Building Manager.

The same rules articulated in the paragraph above apply for all FPS-contracted Protective Security Officers (PSOs) working at FPS-protected federal facilities. If the FSC/DO does not require fully vaccinated individuals to wear a face mask when entering the federal facility, then PSOs shall not request information about an individual's vaccination status upon entry or during security screening operations. Additionally, fully vaccinated PSOs are not required to wear masks while standing post in only those FPS-protected federal facilities with relaxed mask wearing for fully vaccinated individuals. However, if the FSC/DO continues to require face masks for all individuals (including those fully vaccinated) entering the federal facility consistent with the discretionary language in the CDC guidance, then PSOs must continue to both wear masks themselves, and enforce applicable face mask requirements in accordance with FPS's February 12, 2021 memorandum for FSCs/DOs.

Please be advised that FPS law enforcement personnel and PSOs have no responsibility for enforcement of wearing masks in federal tenant workspace, meaning that the impacted federal tenant agency must address issues with employee, contractor, and/or invited visitor not wearing a mask as an employment, contract, or administrative matter. FPS only responds if a criminal predicate develops with a non-compliant employee, contractor, or visitor.

It should also be noted that FPS does not currently enforce the wearing of masks outside of the federal buildings it protects unless the failure to wear a mask outside of the building directly violates a posted building requirement and impedes the safe and efficient operation of that federal building. FPS, as a designated member of the Safer Federal Workforce Task Force created by EO 13991, will continually assess the effectiveness of the mask wearing enforcement efforts and work closely with FSCs and DOs to ensure that the federal buildings it protects remain as safe as possible for federal employees working in the buildings and visiting members of the public.

As always, please be advised that any new security screening entrance procedure may result in the PSO security vendors (security guard companies) submitting Requests for Equitable Adjustment for additional compensation due to any deviation from the current post orders. These requests will be reviewed on a case-by-case basis; and if they are deemed by the FPS Contracting Officer to constitute a change to the contract Scope of Work, additional compensation may be due to the PSO vendor for which the tenant agency will be responsible.

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Under no circumstances shall the tenant agency attempt to direct the PSO vendor to make any changes in security requirements. Any changes must be coordinated through the local FPS point of-contact (i.e., assigned Contracting Officer Representative or assigned Inspector or Commander) who will then submit the proposed change(s) to the FPS Contracting Officer for the PSO contract and implement in accordance with the terms of the contract.